

ORDINANCE NO. 2014:18

AN ORDINANCE TO AMEND CHAPTER VII OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF NEW MILFORD ENTITLED ADMINISTRATIVE PROCEDURES AND POLICIES TO ADD SECTION 2-43 AUTHORIZING PAYMENT OF COMPENSATORY TIME TO NEW MILFORD LIBRARY EMPLOYEES

WHEREAS, the Local 108 Public Employees Division RWDSU, UFCW (“Union”) is the exclusive bargaining representative of all Borough of New Milford Library employees (“employees”); and

WHEREAS, the Borough of New Milford Public Library and the Union are parties to the Agreement Between the Borough of New Milford and Local 108 Public Employee Division RWDSU, UFCW (“CBA”), originally covering the time period between January 1, 2008 to December 31, 2011, and extended by Memorandum of Agreement dated October 1, 2012 to the time period covering January 1, 2012 and December 31, 2014; and

WHEREAS, said CBA provides, at Art. IX § 1(D)-(E), that covered employees are entitled to extra compensation for unused sick days, up to one-half of their annual allotment, provided they have maintained a “sick bank” of at least fifty (50) or sixty (60) days—depending the particular employee’s start-date—and subject to the other limitations set forth therein; and

WHEREAS, said CBA provides, at Art. IX § 8, that covered employees, upon retirement, are entitled to monetary compensation for unused accrued sick days in an amount not to exceed \$20,000 or, for covered employees who had accrued sick days valued in excess of \$20,000 as of December 31, 2012, the amount at which that covered employees’ sick days were valued on that date; and

WHEREAS, said CBA provides, at Art. XIII, that covered employees are entitled to compensatory time when working in excess of thirty-five hours per week; and

WHEREAS, said CBA was duly authorized by resolution of the Borough of New Milford; and

WHEREAS, on or about April 9, 2014, the Acting Comptroller of the State of New Jersey issued a report addressing the payment of compensatory time without the existence of an ordinance permitting same, and it appearing that the Borough of New Milford has abided by a practice, followed by many other municipalities in the State of New Jersey, wherein

compensatory time and other employment benefits have been awarded by way of resolution and collective bargaining agreement, but not by way of Ordinance; and

WHEREAS, it appears that the employees covered under said CBA have potential legal claims against the Borough of New Milford if such compensation and employment benefits are not paid pursuant to the terms of the CBA; and

WHEREAS, it is the position of the Borough of New Milford that, the failure to pay such compensation after previously agreeing to pay it and, after service was provided in anticipation of such payment, would be wholly unfair and inequitable;

The Governing Body of the Borough of New Milford determines the following:

1. The employees covered under said CBA are permitted to receive monetary compensation for unused sick days, as provided by Art. IX § 1(D)-(E) of the CBA.
2. The employees covered under said CBA, upon retirement, are permitted to receive compensation for unused accrued sick days, as provided by Art. IX § 8 of the CBA.
3. The employees covered under said CBA are permitted to accrue compensatory time, as provided by Art. XIII of the CBA.
4. The compensatory time and compensation for unused sick days provided by this Ordinance shall be paid in accordance with the terms of the CBA.
5. Nothing in this Ordinance shall be deemed to create a right to the above-described benefits for future employees.
6. The employment compensation and benefits of future employees shall be set through negotiations between the Borough of New Milford and the Union, as memorialized in subsequent collective bargaining agreements.
7. Nothing in this Ordinance should be interpreted as the Borough of New Milford's agreement that the above-described benefits be paid to any other employee.
8. The sole purpose of this Ordinance is to ratify the resolutions and actions of prior governing bodies and resolutions approved by such governing bodies authorizing the execution of the aforementioned CBA with the Union and the payment of compensation in accordance with the provisions of the CBA in exchange for services rendered, pursuant to the direction provided in the report of the Acting Comptroller of the State of New Jersey.